

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIM TROTTIER HIRT,

Defendant.

CR-14-10-BLG-DLC

FINDINGS AND
RECOMMENDATION
CONCERNING PLEA

The Defendant, by consent, appeared before me under Fed. R. Crim. P. 11 and entered a plea of guilty to the Superseding Information, which charges the crime of conspiracy to possess with intent to distribute and to distribute methamphetamine in violation of 21 U.S.C. § 846.

After examining the Defendant under oath, the Court determined that the guilty plea was knowingly, intelligently, and voluntarily entered; that the Defendant fully understands her constitutional rights and the extent to which such rights are waived; and that the offense charged and to which a guilty plea was entered contained each of the essential elements of the offense. The Court further concludes that the Defendant had adequate time to consult with counsel.

I recommend that the Defendant be adjudged guilty of conspiracy to possess with intent to distribute and to distribute methamphetamine in violation of 21 U.S.C. § 846, as charged in the Superseding Information, and that a sentence be imposed. A presentence report has been ordered.

Counsel for Defendant sought continued release pending sentencing, and the United States did not object to continued release. Defense counsel argued that exceptional circumstances exist that warrant Defendant's continued release. Section 3143(a)(2) of Title 18 provides that a person who has been found guilty of a serious drug offense (*see 18 U.S.C. 3142(f)(1)(C)*) shall be detained pending sentencing unless certain conditions are met – which conditions do not appear to be met in this case. Until this Recommendation is accepted, however, Defendant has not yet been “found guilty” of the offense, so section 3143(a)(2) does not yet require detention.

The Court is unaware of any violation of terms of Defendant's pretrial release conditions (*see ECF 18*) and therefore determined, based on all the circumstances, to continue her release pending review of these Findings and Recommendation. If Defendant's guilty plea is

accepted, and she is thus “found guilty” of the offense charged in the Superceding Information, then the presiding judge may determine whether 18 U.S.C. § 3143(a)(2) then requires detention pending sentencing.

Objections to these Findings and Recommendation are waived unless filed and served within fourteen (14) days after the filing of the Findings and Recommendation. 28 U.S.C. § 636(b)(1)(B); Fed. R. Crim. P 59(b)(2).

DATED this 5th day of June, 2014.

/s/ Carolyn S. Ostby
United States Magistrate Judge